

**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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No. 24-3046  
No. 24-3047  
(Consolidated No. 24-3045)

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UNITED STATES OF AMERICA,

Appellee,

v.

DEREK KINNISON and ERIK WARNER,

Appellants.

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**JOINT PROPOSED MOTION TO LIFT THE ABEYANCE ORDER  
AND PROPOSED BRIEFING SCHEDULE**

In response to this Court's order filed September 9, 2024, undersigned counsel for Appellants Derek Kinnison and Eric Warner, in agreement with Government counsel, respectfully request that the Court lift the abeyance order as the mandate has issued in *United States v. Fischer*, No. 22-3038. The parties are now able to proceed with appellate briefing and propose the following scheduling order:

- a. Defendants' joint opening brief: due March 20, 2025, not to exceed 25,000 words;

- b. Government's consolidated answering brief: due July 21, 2025, not to exceed 25,000 words; and
- c. Defendants' joint reply brief: due October 21, 2025, not to exceed 12,500 words.

Counsel for Kinnison and Warner did not participate in the trial of this case. Thus, counsel respectfully request these extended time frames given the lengthy trial record and extensive trial exhibits which include dozens of surveillance videos.<sup>1</sup>

Counsel have conferred with counsel for the government, Reuven Dashevsky of the U.S. Attorney's Office, who agrees with this request.

Dated: September 19, 2024

Respectfully submitted,

Rene L. Valladares  
Federal Public Defender

/s Amy B. Cleary  
Amy B. Cleary  
Assistant Federal Public Defender

/s Rohit Rajan  
Rohit Rajan  
Assistant Federal Public Defender  
Attorneys for Derek Kinnison

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<sup>1</sup> Though Mr. Warner and Mr. Kinnison will endeavor to comply with the proposed word limit, their counsel have not yet identified all the issues to be raised on appeal.

Fidel Cassino-DuCloux  
Federal Public Defender

s/ Susan F. Wilk

Susan F. Wilk  
Assistant Federal Public Defender  
Attorney for Erik Warner

**Certificate of Compliance with Rule 27(d)**

I certify that, pursuant to Fed. R. App. P. 32(g) that this motion contains 202 words, and therefore complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A). This motion has been prepared in 14-point Century Schoolbook, a proportionally spaced typeface.

s/ Amy B. Cleary

Amy B. Cleary

Assistant Federal Public Defender

Attorney for Derrick Kinnison

**Certificate of Service**

I certify that I have caused a copy of the foregoing motion to be served by electronic means, through the Court's CM/ECF system, upon counsel for the United States, Reuven Dashevsky, Chrisellen Rebecca Kolb, and USAO Appellate Counsel, this 19th day of September, 2024.

s/ Amy B. Cleary

Amy B. Cleary

Assistant Federal Public Defender

Attorney for Derrick Kinnison